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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,858	09/29/2006	Stefan Sommer	60680-2121	8118
68450 7590 04/27/2010 MARSHALL & MELHORN, LLC FOUR SEAGATE 8TH FLOOR TOLEDO, OH 43804				
EXAMINER				
KWON, ASHLEY M				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
04/27/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/594,858

**Applicant(s)**

SOMMER ET AL.

**Examiner**

ASHLEY KWON

**Art Unit**

1795

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18 and 20-36 is/are pending in the application.
- 4a) Of the above claim(s) 26-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18 and 20-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date 7/2/2007.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Invention I, claims 18-25, in the reply filed on 2/22/2010 is acknowledged. The traversal is on the ground(s) that the **amended** claims all have the technical features that define a contribution over the art, as Rock clearly fails to suggest having cavities of the first plate are dissimilar in shape from the cavities of the second plate and the projections on the first plate are discrete and spaced from one another. This is found persuasive, however the new amended special technical feature does not differentiate from the invention of prior art US 2003/0194595 (hereinafter "Gibb"). Gibb discloses having cavities of the first plate that are dissimilar in shape from the cavities of a second plate and the projections on the first plate are discrete and spaced from one another.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

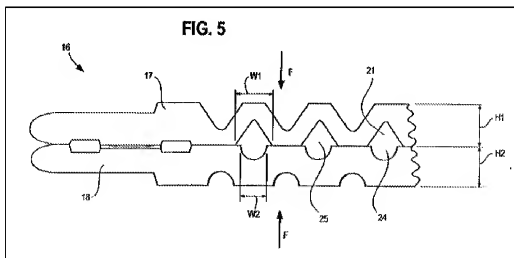
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18 and 20-25 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2003/0194595 (hereinafter "Gibb").

Regarding claim 18, Gibb discloses a separator for electrochemical systems, comprising: a first conductive plate having a face (first flow field plate, 17); and a second conductive plate having a face (second flow field plate, 18); wherein each plate includes a series of projections extending outwardly therefrom; wherein each of the projections have a corresponding cavity defined on the opposite side thereof; wherein when the faces of the first and second plates are brought into an overlapping relationship, at least a subset of the cavities of the first plate engage a subset of the cavities of the second plate to provide at least one flow path between the first plate and the second plate (inner flow field channel, 25); wherein the cavities of the first plate (21) are dissimilar in shape from the cavities of the second plate (24); and wherein the projections on the first plate are discrete and spaced from one another (see fig. 5). The projections on the first flow field plate are discrete because they are spaced apart by outer channels 20.



Regarding claim 20, Gibb discloses the separator of claim 18 wherein the cavities of the second plate comprise a plurality of generally parallel channels (see fig. 5).

Regarding claim 21, Gibb discloses the separator of claim 18 wherein the at least one flow path between the first plate and the second plate defines at least one flow path (inner flow field) for cooling fluid ([0016]).

Regarding claim 22, Gibb discloses the separator of claim 18 wherein at least one of the projections of the first plate and the projections of the second plate define a flow path for media distribution ([0016]).

Regarding claim 23, Gibb discloses the separator of claim 22 wherein the projections of the first plate define a flow path for distributing a fuel medium on the anode side of a fuel cell ([0016], [0035]).

Regarding claim 24, Gibb discloses the separator of claim 22 wherein the projections of the second plate define a flow path for distributing a media medium on the cathode side of a fuel cell ([0016], [0034]).

Regarding claim 25, Gibb discloses the separator of claim 24 wherein the medium is one of air and oxygen ([0016], [0034]).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ASHLEY KWON whose telephone number is (571)270-7865. The examiner can normally be reached on Monday to Thursday 7:30 - 6 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ASHLEY KWON/  
Examiner, Art Unit 1795

/PATRICK RYAN/  
Supervisory Patent Examiner, Art Unit 1795

Application/Control Number: 10/594,858  
Art Unit: 1795

Page 6